

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
	)	
V.	)	CR-04-30034-MAP
	)	
	)	
MICHAEL ALAN CROOKER	)	

AFFIDAVIT OF MICHAEL ALAN CROOKER  
REGARDING THE LEGITIMATE USES OF SILENCERS

I, Michael Alan Crooker, declare as follows:

(1) This affidavit is to respond to the Government's allegation at Page 11 of their Sentencing Memorandum that "There is no legitimate purpose for a silencer."

(2) The air rifle silencer in this case, Exhibit 9, as well as the oil filter mentioned in Exhibit 38, and the lawnmower muffler mentioned by AUSA O'Regan in his Opening Arguments to the jury at Page 13 of the June 29, 2006 Transcript, under this court's definition, are all silencers but all have legitimate uses as well.

(3) The court itself stated so on Page 4 of Document 172 Memorandum and Order: "Indeed it is hard to fathom how this sort of specific intent could be proved beyond a reasonable doubt in the face of evidence that the device had other uses."

(4) When AUSA O'Regan questioned ATF Expert Richard Craze on June 30, 2006, at Page 92:

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Q. Can silencers be used with air rifles?

A. Yes, sir.

Q. And what would be the purpose of using a silencer with an air rifle?

A. Well, air rifles are very loud and it would be the same in theory as it would be on a firearm to entrap the energy that's pushing the projectile out of the weapon. So if you can entrap that, you will lessen the noise of that particular device.

(5) At Page 94 AUSA O'Regan continues on:

Q. And could this silencer, Government's Exhibit Number 9, be screwed on the front of Government's Exhibit Number 4 and be used to silence the sound of this air rifle?

A. As you've demonstrated, yes.

(6) Page 82 of the July 5, 2006 Transcript mentions Defense Exhibit G, an ATF Evidence Transmittal Form, that has the language "All four silencers were fitted for air rifles ranging from .22 to .44 caliber and were advertized as moderators."

(7) ATF Agent Larry Ward also testified that when he found three additional air rifles equipped with silencers in the home of Mr. Paulus, that Mr. Paulus told him that he used them to muffle the sound of his air rifles so as to not irk his neighbors.

(8) At no time during the 3-year course of this criminal case has there been even a suggestion, let alone proof, that the air rifle device was used or intnded to be used for anything but a legitimate purpose.

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(9) I am aware of at least two times that ATF has ruled that silencers for airguns were legitimate and permitted.

(10) On July 26, 1987 ATF ruled that a silencer made or marketed by West End Paintball Supplies for a compressed air gun was not a silencer for a firearm. This was Defense Exhibit J for Identification.

(11) On October 12, 2005 in ATF Ruling 2005-4 ATF ruled that .68 caliber compressed air paintballguns equipped with integral silencers were legitimate and permitted, even though examiners were able to hacksaw off and use them with adapter pieces to muffle the report of a Ruger gunpowder firearm. This was marked Defense Exhibit B for Identification.

I DECLARE THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED THIS 7TH DAY OF JUNE, 2007. 28 U.S.C. 1746.

S/ Michael Alan Crooker  
Michael Alan Crooker  
CCI MacDougall  
1153 East Street South  
Suffield, CT 06080

AIRGUNS VERSUS PAINTBALLGUNS

July 5, 2006 Transcript at Page 98-99

Q. And would you agree with me that at least in the past ATF has had occasion to classify some air gun and paintball silencers as actual firearm silencers and some were not?

MR. O'REGAN: Objection.

THE COURT: I'm going to sustain the objection.

Q. (By Mr. Bongiorno) Are you aware of whether or not while you were employed in the Firearms Technology Branch whether examiners such as yourself had classified some paintball silencers as non-firearms?

MR. O'REGAN: Objection.

THE COURT: I'm going to sustain the objection. I'm going to preclude any testimony with regard to paintball silencers.

Q. (By Mr. Bongiorno) Have you yourself ever examined any suspected silencers that were designed or adapted for use on a paintball gun or an air gun?

MR. O'REGAN: Objection.

THE COURT: Well, I'm going to sustain the objection with regard to paintball gun. I will allow the question with regard to an air gun.

(At no point, in any portion of these 3-year's proceedings, has anyone ever drawn a distinction between an "air gun" and a "paintball gun." There is in fact no legal or physical difference.)